

Report on the

Licensing Board for General Contractors

Montgomery, Alabama



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September 15, 2010

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the State Licensing Board for General Contractors in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the State Licensing Board for General Contractors, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones
Chief Examiner

Examiners:
Bilikisu Alabi
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PROFILE

Purpose/Authority

The Licensing Board for General Contractors licenses and regulates the practice of contracting for commercial and industrial construction in Alabama. The board operates under the authority of the *Code of Alabama 1975*, Sections 34-8-1 through 34-8-28. The board's functions include reviewing applicants' qualifications for examination and licensure. The board investigates complaints against licensees and non-licensees for noncompliance with the contractor licensing law.

<u>Board Characteristics</u>	
Members and Selection	Five – each appointed by the governor. <i>Code of Alabama, 1975</i> , Section 34-8-20
Term	5 year staggered terms <i>Code of Alabama, 1975</i> , Section 34-8-20
Qualifications	<ul style="list-style-type: none">• Citizen of Alabama• Must have at least ten years' experience as a contractor.• At least one member must have as a larger part of his or her business the construction of highways• At least one member must have as a larger part of his or her business the construction of public utilities• At least one member must have as a larger part of his or her business the construction of buildings <i>Code of Alabama, 1975</i> , Section 34-8-20
Racial Representation	No specific statutory requirement. No racial minority members serving.
Geographical Representation	No statutory requirement.
Consumer Representation	No statutory requirement.
Other Representation	The membership of the board shall be inclusive and reflect the racial, gender, urban/rural, and economic diversity of the state. <i>Code of Alabama, 1975</i> , Section 34-8-20

Compensation	<p>\$200 per day for attending sessions of the board or its committees, and for time actually spent in necessary travel in attending meetings of the board or its committees.</p> <p>and</p> <p>Necessary travel expenses as paid to state employees.</p> <p><i>Code of Alabama, 1975, Section 34-8-22</i></p>
<u>Operations</u>	
Administrator	<p>Joseph C. Rogers, Executive Secretary</p> <p>Annual salary \$105,403.20</p> <p>Unclassified merit system employee</p> <p>Appointed and salary set by the board</p>
Location	<p>2525 Fairlane Drive</p> <p>Montgomery, AL 36116</p> <p>Office Hours: M-F 8:00AM – 5:00PM</p>
Examinations	<p>Examination of contractors and subcontractors is, by law, at the discretion of the board.</p> <p>Since March 2003, the board has required applicants for a general contractor's license to successfully complete an examination before a license is issued. There are various types of examinations depending on the nature of the contracting work for which a license is sought. Subcontractors are not required to take an examination.</p> <p>Examinations are computerized and are administered and scored by PSI Examination Services. Each applicant is charged an examination fee per examination which is paid directly to the examination provider. Payment of the fee allows applicants a one year window in which to schedule an examination. Applicants are allowed unlimited testing attempts within the one-year window.</p> <p>Examinations are given at four testing sites around Alabama</p> <ul style="list-style-type: none"> • Birmingham • Huntsville • Mobile • Montgomery <p>See the Appendices for detailed exam statistics.</p> <p><i>Code of Alabama, 1975, Section 34-8-3</i></p>

Licensees	<p>General contractor and subcontractor licenses as of 4/29/10</p> <table> <tr> <td>General Contractors</td><td>6,017</td></tr> <tr> <td>Subcontractors</td><td><u>3,376</u></td></tr> <tr> <td>Total</td><td><u>9,393</u></td></tr> </table>	General Contractors	6,017	Subcontractors	<u>3,376</u>	Total	<u>9,393</u>
General Contractors	6,017						
Subcontractors	<u>3,376</u>						
Total	<u>9,393</u>						
Reciprocity	<p>The board has no specific statutory requirement to provide reciprocal licenses, however; it does have reciprocal license agreements with Arkansas, Louisiana, Mississippi, Tennessee. If an applicant has been licensed in good standing for 3 or more years, the trade-related portion of the examination may be waived upon written certification from that state in which the applicant is licensed. Reciprocal states may require a separate business law portion of the examination to be taken.</p>						
Renewals	<p>Licenses are renewed annually, based on a monthly schedule determined by the first letter of the surname or company name of the renewing licensee.</p> <p>The license to engage in the business of general contracting expires during the month designated as each licensee's renewal month and is invalid after the last day of that month. All renewal applications are due thirty days prior to expiration of license.</p> <p>If a licensee fails to renew his or her license within 90 days following expiration of the license, a late penalty of \$50 is due upon renewal, in addition to the regular renewal fee.</p> <p>On-line renewals are not available.</p> <p><i>Code of Alabama, 1975, Section 34-8-2</i></p>						
Continuing Education	No statutory requirement.						
Employees	18						
Legal Counsel	<p>Arden Reed Pathak, Private Attorney 3015 Boxwood Drive Montgomery, AL 36111</p>						
Subpoena Power	None other than in connection with hearings, as provided in the state's Administrative Procedure Act.						

Internet Presence	www.genconbd.state.al.us . The board's web site contains: <ul style="list-style-type: none"> • Home page with contact information • Application instructions • Renewal information • Reciprocity information • Forms • Testing information • Licensee Roster • Law • Rules and Regulations • FAQs • Related links • Consumer Information
Attended Board Member Training	January 29, 2009 – Joseph Rogers, Executive Director.
<i>Financial</i>	
Source of Funds	Licensing fees.
State Treasury	Yes-Special Revenue Fund 0368
Required Distributions	<p>The <i>Code of Alabama 1975</i>, Section 34-8-28 requires that the board distribute a portion of application and renewal fees (\$100 for general contractors and \$50 for subcontractors), less 5% for administrative expenses, at the end of each fiscal year to all accredited Alabama public institutions of higher education that offer a qualified engineering or building science curriculum.</p> <p><i>Code of Alabama, 1975</i>, Section 34-8-28</p>
Unused Funds	<p>All funds remaining at the end of the year in excess of 33% of the board's budget for the previous year must be paid into the state's General Fund by January 15.</p> <p><i>Code of Alabama, 1975</i>, Section 34-8-25</p>

This significant issue is rescinded due to the effect of language in the ***Code of Alabama 1975***, Section 34-8-2(b) which states that, "The board may promulgate rules and regulations relating to the procedures for renewal of licenses."

SIGNIFICANT ISSUES

Significant Issue 2010-01 - The board appears to have exceeded its statutory authority by adopting and enforcing administrative rules to limit the time beyond which renewal of an expired license cannot occur. The board by administrative rule 230-X-1-.01(4) limits to one year the period of time after expiration of a license beyond which license renewal cannot occur. The board by administrative rule 230-X-1-.34 (9) (a) also requires the holder of a license in an expired status for more than one year to re-qualify for licensure by filing a new application and submitting to a new examination.

The ***Code of Alabama 1975***, Section 34-8-2(b) provides that, "The certificate of authority to engage in the business of general contracting in the State of Alabama shall expire 12 months following its issuance or renewal and shall become invalid on that date unless renewed." The ***Code of Alabama 1975***, Section 34-8-2 (a) provides a 90 day grace period for renewal of a license after which a \$50 penalty attaches. Statutes do not mention a limit on the time following expiration of license beyond which renewal cannot occur.

Placing a limit on the time period for renewal of license imposes a barrier to renewal that is not either specifically or impliedly authorized in the statutes. Although the ***Code of Alabama 1975***, Section 34-8-2 provides that, "The board may promulgate rules and regulations relating to the procedures for renewal of licenses", the Office of the Attorney General in numerous opinions has stated that state boards and regulatory agencies may not use administrative rule or policy to enlarge upon statutory authority. In quoting the courts, the attorney general has stated that;

"When a statute enumerates certain things on which it is to operate, the statute must be construed as excluding from its effect all things not expressly mentioned." (Opinions 2006-147 and 1997-036).

Significant Issue 2010-03 – **Survey indicates contractors may not be adequately informed of changes to board rules** – 42% of the general contractors polled in our survey indicated that they are not adequately informed of changes to board rules or of the board's interpretations of the rules or policies.

The board complies with notification procedures prescribed in the state's Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. However, licensees are not notified individually of proposed changes.

Significant Issue 2010-04 – **Survey indicates unlicensed contractors working in Alabama is a significant concern to general contractors** – Twenty-five percent of the general contractors who responded to our survey of licensed contractors stated that the presence of unlicensed contractors was the most significant issue in their business.

The board's executive secretary stated that, "The Board has three investigators, one covering North Alabama, one covering Central Alabama, while the third covers South Alabama. Their primary job is to check for unlicensed contractors by actually going on the site to see their licenses. The investigators also attempt to educate the public by a number of different methods. One method is by placing an 11"x17" sign in every permitting office in the state that explains who needs a General Contractor's license. Another method they use to let people know who needs General Contractor's

license is by attending and speaking at local code meetings. The Executive Secretary also attends different State Contractor Association meetings, State Code meetings, State Municipal Clerk meetings, and other meetings speaking at times to explain the requirement for licenses. The Board also works with other States on Reciprocity license agreements. Working to curb unlicensed contractors is an ongoing task of the Board.”

Significant Issue 2010-05 – Our survey of board members indicates a perceived need by the board for additional fees. Three of the five board members think the downturn in the economy is a drag on the board’s revenue and that the board may need alternative sources of revenue. The board members also expressed the desire to be able to charge for *all* services the board currently provides. Among the services currently provided by the board and for which a fee is not authorized is verification or certification of Alabama contractor licensure to other jurisdictions.

Our analysis of the board’s revenues shows a slow but steady increase in license fee revenues through the 2009 fiscal year, with a projected decrease in 2010. The analysis also shows a continuing marked decline in receipts from fines for violations.

The 2010 fiscal year was not yet complete at the time of this report. The following analysis presents the board’s operating receipts as of July 31 in each of the indicated fiscal years, according to the state comptroller’s reports. Fees earmarked for transfer to other entities are not included.

<u>Operating Receipt Collections as of July 31</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
License Fees	\$812,138.50	\$840,142.51	\$843,933.00	\$783,421.50
Legal Violations	\$749,150.00	\$615,400.00	\$467,500.00	\$247,000.00
Total	\$1,561,288.50	\$1,455,542.51	\$1,311,433.00	\$1,030,421.50

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

All prior significant issues and findings have been resolved except for the following:

Prior Finding 2004-06

The board does not make timely distribution of funds collected for distribution to public institutions of higher education at the end of each fiscal year, as required by law. The fiscal year ends September 30 of each year, but the transfer of funds is delayed six months or longer in order to have sufficient operating funds on hand.

The *Code of Alabama 1975*, Section 34-8-28 (a) requires that one hundred dollars (\$100) and fifty dollars (\$50) of the fees required for application and renewal of the license of a contractor and subcontractor respectively, less 5% the board is allowed for administrative expenses associated with the collection and distribution of said fees, must be distributed by the State Licensing Board for General Contractors *at the end of each fiscal year* to all accredited public institutions of higher education offering the qualifying engineering or building science curriculum.

The board delays distribution of the funds in order to compensate for the effects of a statutory requirement in the *Code of Alabama 1975*, Section 34-8-25, which provides that any unspent, unobligated funds in excess of \$30,000 remaining in the board's fund balance at year end must be transferred to the State's General Fund. The \$30,000 cap on fund balance has been in the board's statutes since at least as far back as 1951 and now funds approximately two weeks of operations in the next fiscal year. The board delays distributing prior year funds to the institutions of higher education in order to maintain a sufficient fund balance to pay for operations while new fee collections accumulate.

Prior Recommendation

The board should seek remedial legislation.

Current Status (this report)

The issue of untimely distribution is not resolved despite remedial legislation that was enacted in 2008. *Acts of Alabama # 2008-134* signed into law on April 10, 2008, amends the *Code of Alabama 1975*, Section 34-8-25 to provide that the board may retain, at all times, a sum not in excess of 33 percent of its budget for the previous year to meet any emergency that may arise which may affect its efficient operation. This legislation was designed to allow the board to retain sufficient funds to begin the new fiscal year thereby alleviating the board's need to delay distribution of funds collected for higher education institutions.

We found that the board continued not to distribute the funds in a timely manner. Funds collected in 2008 were not distributed until March 2009, and the funds collected in 2009 were not distributed until February 2010. The *Code of Alabama 1975*, Section 34-8-28 (a) requires that the funds be distributed at the end of each fiscal year, which ends on September 30.

Prior Finding 2008-06

Minutes of board meetings contained the following deficiencies:

- ◆ Three instances when members arrived after the meeting had started or departed before the meeting ended that were not recorded in the minutes.
- ◆ Two instances in which the recording of votes was inconsistent with the members who were recorded as present at the meeting.
- ◆ One instance in which items on the agenda were passed with two members voting. A quorum for the board is three voting members.

These inconsistencies leave doubt as to who was present during meetings or if the necessary quorum was present to do business.

Guidelines for taking minutes are provided by the State Records Commission and can be found at the <http://www.archives.alabama.gov/officials/leaflets1.html#state>. The guidelines state that the time of late arrivals, early departures, or any other breaks (including recusals) must be recorded in the minutes so that the minutes will document which members were present or absent during the body's deliberation or action on agenda items. The guidelines state that minutes should clearly state if a quorum is present.

Prior Recommendation

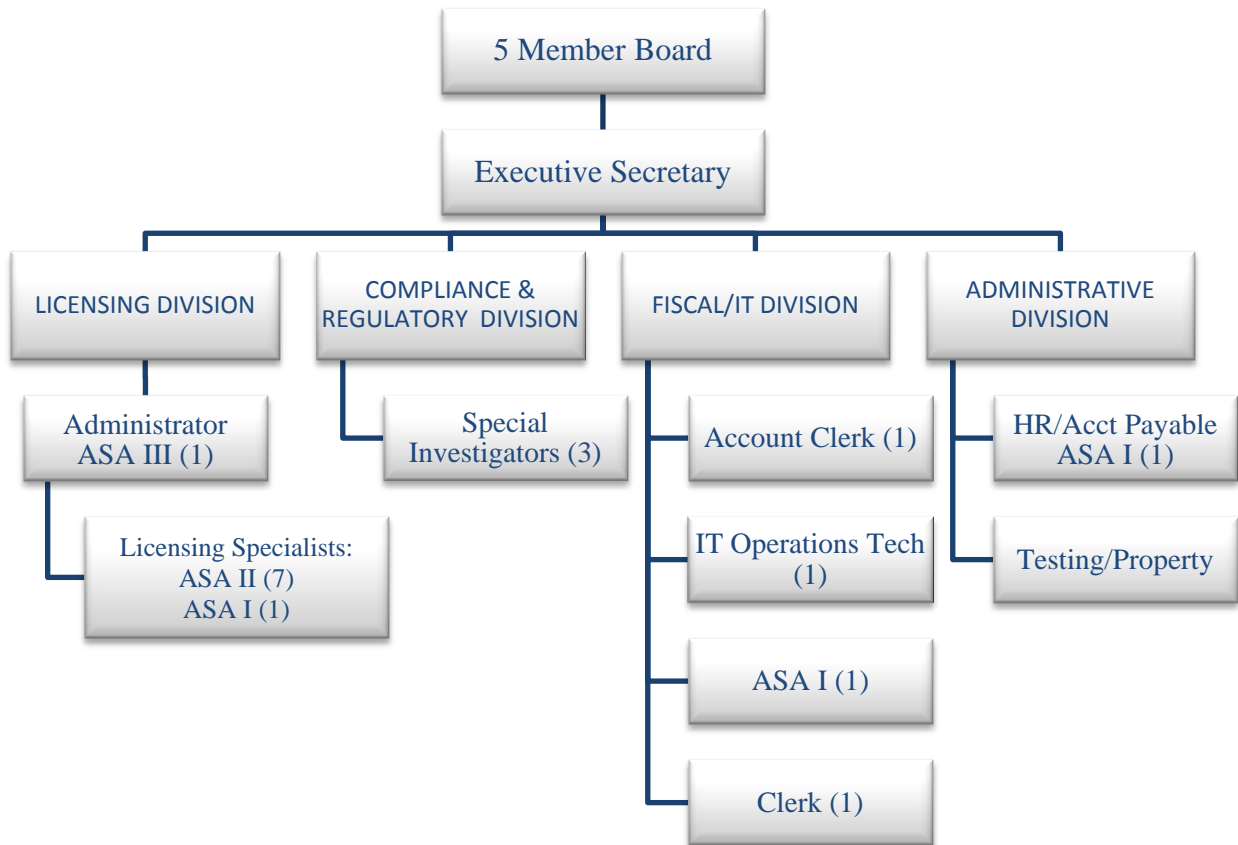
The board should adhere to the guidelines for taking minutes provided by the State Records Commission.

Current Status (this report)

The current examination revealed that the finding is partially resolved. The following deficiencies continue:

- ◆ Three instances in which the number of votes recorded was inconsistent with the number of members who were recorded as present at the meeting [7/16/09, 2/17/10, and 4/21/10].
- ◆ One instance in which items on the agenda were passed with only two members recorded as voting [7/16/10]. A quorum for the board is three voting members.

ORGANIZATION



PERSONNEL

Schedule of Employees By Merit System Classification/Gender/Race						
Class	Title	Total	B/M	W/M	B/F	W/F
10121	Clerk	1				1
10196	ASA I	3			1	2
10197	ASA II	7			4	3
10198	ASA III	1			1	
10421	IT Operation Tech	1				1
10601	Account Clerk	1				1
60320	Special Investigator	3		3		
99363	Executive Secretary	1		1		
Total		18	0	4	6	8

B/M=black male, W/M=white male, B/F=black female, W/F=white female

Legal Counsel

Arden Reed Pathak, Esq., a private attorney in Montgomery, Alabama, serves as general counsel to the board under a legal services contract at the rate of \$85 per hour. The contract is effective from January 1, 2010 through September 30, 2011. Total compensation for services, expenses and per diem may not exceed \$110,000.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 522 as of May 2010.

Number of Persons per Licensee in Alabama and Surrounding States

	Population (estimate) *	Number of Licensees	Persons Per Licensee
Alabama	4,708,708	9,393	501
Florida	18,537,969	85,989	215
Georgia	9,829,211	5,958	1,650
Mississippi	2,951,996	6,987	422
Tennessee	6,296,254	18,500	340

**U.S. Census as of July 1, 2009*

Operating Disbursements per Licensee – \$137 for fiscal year 2009

Notification to Licensees of Board Decisions to Amend Administrative Rules

The board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are not specifically notified individually of proposed changes.

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

The following entities may also license and regulate the practice of licensed contractors when they engage in trades or professions licensed by the boards: Board of Heating and Air Conditioning Contractors, the Board of Electrical Contractors, the Plumbing and Gas Fitting Examining Board, the Home Builders Licensure Board, and the Alabama Onsite Wastewater Board.

COMPLAINT HANDLING

Initial Contact/Documentation	<p>The board receives complaints by telephone, mail or fax. Anyone, including the board's staff, may bring a complaint. The board has a complaint form but accepts all complaints submitted in any form including those submitted anonymously so long as there is sufficient information to proceed. The board has three full time investigators on staff.</p> <p>The investigating officer, upon receipt of a complaint, notifies the complainant by telephone of the receipt of the complaint. The investigator provides a copy of his report of the investigation to the IT Technician for entry into the complaint database and assignment of a tracking number. The investigative report is also provided to the executive secretary and the board attorney.</p> <p>Upon resolution, the IT Technician records the board's order, usually a monetary fine or warning, in the database and updates the record as the respondent complies with the order.</p>
Investigative Process	<p>The investigator investigates and determines whether a violation has occurred or is occurring. He issues a 'stop-work order for ongoing violation and informs the parties of the pertinent contracting laws that may have been violated. He informs the parties that a report will be prepared for the board and that the board will be contacting them shortly. He prepares a report of the investigation for the board's executive secretary and attorney. He also provides a copy of the report to the IT technician for the complaint database.</p>
Probable Cause Determination	<p>The board's attorney reviews the investigator's report and recommends corrective action to the board. The board also reviews the investigative report along with the attorney's recommendation and issues its order.</p>

Resolution without formal Hearing	The board reviews the investigative reports, considers its attorney's recommendation and makes its decision. The decision usually is an administrative consent order that includes a stated amount of monetary fine. The board's attorney notifies the respondent of the board's decision with a demand for compliance.
Formal Hearing	<p>The board is subject to the provisions of the Alabama Administrative Procedures Act (<i>Code of Alabama 1975</i>, Sections 41-22-12 through 41-22-21 which provide for the conduct of administrative hearing in contested cases. The board, otherwise, does not have specific administrative rules in place for formal hearings.</p> <p><i>Code of Alabama 1975</i>, Section 34-8-4 authorizes the board to levy and collect administrative fines of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) for any violation of any provision of this chapter or the rules and regulations of the board.</p> <p>The board may also revoke the license of any general contractor who is found guilty of fraud or deceit in obtaining a license, gross negligence, incompetence or misconduct in the conduct of business.</p> <p>The board has not conducted a formal administrative hearing in the last two years. All complaints were settled by consent agreements coupled with varying amounts of monetary fines or warnings.</p>
Notification of Resolution to the Complainant	Complainants are not notified of the board's resolution of the complaints.

Schedule of Complaints Resolved 2007 through 2010								
FY	No. Received	Investigation Result		Resolved				No. Pending
		Unfounded	Founded	2007	2008	2009	2010	
2007	820	655	165	146	19			0
2008	891	718	173		162	11		0
2009	820	674	146			122	24	0
2010 ⁽¹⁾	457	383	74				72	2

Source: Board staff

⁽¹⁾ As of 6/15/2010.

Average Time to Resolve Complaints – 23 days

SMART GOVERNING

2009 Performance Report				
GOAL			COMMENTS	
To reduce the amount of renewal forms returned because of wrong or incomplete information provided by the general contractor to 5% by the year 2010.			The goal is appropriate; a target date and target level of performance is given.	
OBJECTIVES	UNIT OF MEASURE	TARGET	REPORTED PERFORMANCE	COMMENTS
Decrease the percentage of renewal forms returned.	percentage of renewals returned	15%	19%	Appears appropriate

2010 Performance Report	
GOAL	COMMENTS
1. To reduce the amount of renewal forms returned because of wrong or incomplete information provided by the general contractor to 5% by the year 2010.	The goal is appropriate and measurable.
2. Maintain expenditures per licensee at or below \$144 through the FY 2010.	The goal is appropriate and measurable.

OBJECTIVES	UNIT OF MEASURE	TARGET	REPORTED PERFORMANCE	COMMENTS
Decrease the percentage of renewal forms returned.	Percentage of renewals returned	5%	n/a – year not yet complete.	Appears appropriate
Maintain expenditures per licensee at or below \$144 through FY 2010	\$ Expenditure per licensee (Expenditures/# of licensees)	\$144	n/a – year not yet complete.	Appears appropriate

FINANCIAL INFORMATION

Source of funds

The board's operating funds are derived from licensing and regulatory fees, which are deposited into the State Treasury to the credit of Special Revenue Fund Number 0368, the State Licensing Board for General Contractors Fund. The fund is authorized by *Code of Alabama 1975*, Section 34-8-22. Balances in the fund must be appropriated by the Legislature to be expended. The board is authorized to retain unexpended year-end balances not to exceed 33 percent of its budget for the previous year.

Required Distributions

The *Code of Alabama 1975*, Section 34-8-28(a) requires that one hundred dollars (\$100) from the fees required for application and renewal for certification and registration of general contractors and an amount of fifty dollars (\$50) from the fees required for application and renewal of the license of a subcontractor shall be distributed by the State Licensing Board for General Contractors at the end of each fiscal year to the following:

- (1) all accredited public institutions of higher education offering American Council for Construction Education accredited courses in building science, and
- (2) to all accredited public institutions of higher education offering courses in building science which are in the candidate status of the American Council for Construction Education and
- (3) to institutions of higher education offering courses leading to a bachelor of civil engineering degree which offers courses in highway engineering and construction at the undergraduate and graduate levels and whose civil engineering program is accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET).

The *Code of Alabama 1975*, Section 34-8-28(b) provides that licensees and license applicants may choose to support either building science or civil engineering program.

The *Code of Alabama 1975*, Section 34-8-28(g) provides that the board shall retain five percent of the license surcharge fee as administrative expense.

From the license fees collected during the 2008-2009 fiscal year, the board made the following distributions to colleges and universities, based upon preferences stated by the individual licensees:

FY 2008-09 Colleges and Universities	Building Science	Civil Engineering	Undesignated¹	Totals
Jefferson State Community College	\$ 21,048.83	\$ 0.00	\$ 2,416.90	\$ 23,465.73
Auburn University	414,744.68	73,198.68	90,875.49	578,818.85
University of AL, Birmingham		29,486.64	17,401.69	46,888.33
University of AL, Huntsville		19,220.41	11,340.84	30,561.25
University of AL, Tuscaloosa		69,837.98	41,198.87	111,036.85
University of South Alabama		24,514.65	14,464.22	38,978.87
Alabama A &M University		13,926.16	8,217.46	22,143.62
Totals	\$435,793.51	\$230,184.52	\$ 185,915.47	\$851,893.50

¹ Amounts not specifically designated by the licensees, either for building science or civil engineering, are distributed between the programs, pro rata, based on the number of full-time equivalent students enrolled in each at the qualifying institutions. (*Code of Alabama 1975*, Section 34-8-28(c)).

Schedule of Fees

FEE TYPE/PURPOSE	STATUTORY AUTHORITY	AMOUNT AUTHORIZED
General Contractor License	34-8-2 (a)	\$300
General Contractor License Renewal	34-8-2 (a)	\$200
Subcontractor License	34-8-7 (c) (1)	\$150
Subcontractor License Renewal	34-8-7 (c) (1)	\$100
Penalty for Late Renewal of License	34-8-2 (a)	\$50
Administrative Fine per Violation	34-8-4	\$500 to \$5,000
Suit for Injunction Fine 34-8-6(c)	34-8-6 (c)	Up to \$5,000 plus costs and attorney fees for each offense
Copy Fee	36-12-41	\$1 per copy
Annual Subscription (received by mail) for Proposed Action on Rules	36-12-41	\$50

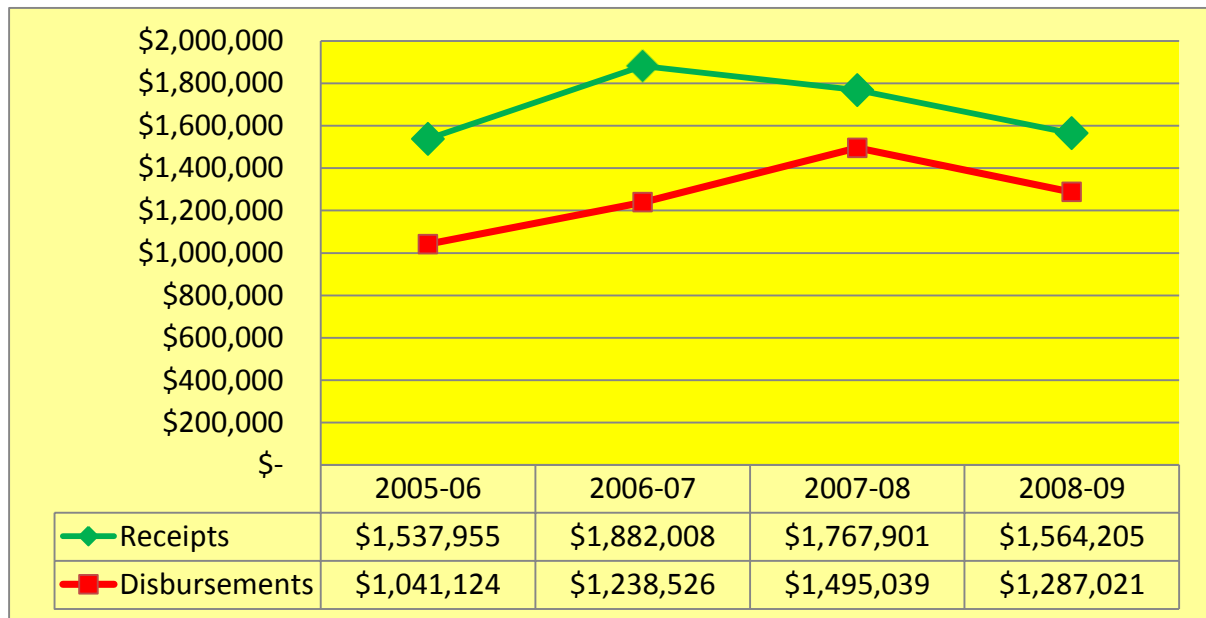
Schedule of Receipts, Disbursements, and Balances

October 1, 2005 through September 30, 2009

	2008-2009	2007-2008	2006-2007	2005-2006
<u>Receipts</u>				
License Fees	\$ 1,035,705	\$ 998,384	\$ 998,570	\$ 901,159
Additional Fees - Higher Ed (1)	896,730	860,293	843,804	764,959
Legal Violations - Fines, Forfeits, Court Settlements	528,500	765,400	870,650	636,500
Abandoned Property - Fines, Forfeits, Court Settlements	-	410	2,950	-
Insurance Recoveries - Proceeds	-	-	3,554	-
Prior Year Refunds	-	-	656	-
Salvaged Equipment	-	3,707	5,628	216
Insurance Premiums	-	-	-	80
Total	2,460,935	2,628,193	2,725,811	2,302,913
<u>Disbursements</u>				
Personnel	683,132	633,164	587,198	531,478
Employee Benefits	284,793	263,823	238,865	207,889
Travel In State	14,562	14,131	14,407	12,399
Travel Out of State	5,470	4,458	4,791	6,700
Repairs and Maintenance	4,457	6,798	2,371	1,311
Rentals and Leases	80,423	80,581	80,596	80,945
Utilities and Communication	53,171	55,508	47,885	45,902
Professional Services	86,388	186,852	68,318	70,656
Supplies and Operating Expenses	42,732	136,460	75,907	60,632
Transportation Equipment Operations	17,142	28,237	27,815	18,220
Capital Outlay	-	21,996	-	-
Transportation Equipment Purchases	-	29,643	67,727	-
Other Equipment Purchases	14,751	33,388	22,646	4,992
Miscellaneous	-	-	300	-
Transfer to General Fund (2)	-	467,224	491,663	363,487
Distributions to Institutions of Higher Education (1)	817,278	801,613	726,711	759,434
Total	2,104,299	2,763,876	2,457,200	2,164,045
Excess (Deficiency) of Receipts Over Disbursements	356,636	(135,683)	268,612	138,869
Cash Balances at Beginning of Year	1,520,134	1,655,817	1,387,206	1,248,337
Cash Balances at End of Year	1,876,770	1,520,134	1,655,817	1,387,206
Less Cash Balance Reserved for:				
Year-End Obligations	(352,386)	(149,039)	(356,980)	(138,832)
Transfer to Institutions of Higher Education (1)	(851,894)	(817,278)	(801,613)	(726,711)
Transfer to General Fund (2)	(39,211)	-	(467,224)	(491,663)
Unreserved Cash Balance at End of Year (3) (2)	\$ 633,279	\$ 553,817	\$ 30,000	\$ 30,000

- (1) The Code of Alabama 1975, Section 34-8-28 requires the board to collect \$100 from general contractor license application and license renewal fees and \$50 from subcontractor license application and license renewal fees and to send these amounts at the end of the fiscal year to institutions of higher education that offer civil engineering or building science courses which meet the accreditation requirements specified by law. The board authorized to retain 5 percent to defray administrative costs.
- (2) Through the 2007 fiscal year, the Code of Alabama 1975, Section 34-8-25 required transfer to the General Fund of any funds remaining at the end of the year, except for \$30,000 to meet emergencies.
- (3) For the 2008 fiscal year, Act No 2008-134 amended the Code of Alabama 1975, Section 34-8-25 to require transfer to the General Fund of any funds exceeding 33 percent of the previous year's budget.

Operating Receipts vs. Operating Disbursements



The chart does not include amounts collected as additional fees, or the distribution thereof, to Alabama institutions of higher education pursuant to *Code of Alabama 1975*, Section 34-8-28. The chart, also, does not include any amount transferred to the General Fund pursuant to *Code of Alabama 1975*, Section 34-8-25.

QUESTIONNAIRES

Board Members

Questionnaires were mailed to all five members of the board. Five responded.

Question #1

What are the most significant issues currently facing the Licensing Board for General Contractors and how is the Licensing Board for General Contractors addressing these issues?

Board Member #1: “(1) Unlicensed contractors – Increased inspections; (2) Unlicensed construction management – Inspections; (3) Unqualified applicants – Close review.”

Board Member #2: “The board needs better security for its records. This is something we have discussed but have not acted upon.”

Board Member #3: “Our revenue is going down as the economy worsens (reduced renewals). We are managing the resources we have responsibly.”

Board Member #4: “With the current state of the economy, new licenses and renewal of licenses will definitely affect our revenue. The board will have to be careful in managing our resources to be able to provide for the future or we will have to search for other sources of revenue.”

Board Member #5: “We may be losing contractors at a higher rate than we are gaining new ones. The economy will have to return to a moderate level to insure a consistent level of renewals. We may need to look at other revenue sources, if funding drops.”

Question #2

What changes to the Licensing Board for General Contractors’ laws are needed?

Board Member #1: “Further separation of enforcement rules for general and subcontractors.”

Board Member #2: “The board needs to be able to hand down stiffer penalties for some violations, like pulling permits for unlicensed contractors.”

Board Member #3: “We need other sources of revenue, like charging for certain services we are not allowed now.”

Board Member #4: “The board needs to be able to charge and collect for services we now perform, but are not allowed to because of the current laws.”

Board Member #5: “Be allowed to charge for services that we perform but are unable to bill or collect payment for.”

Question #3

Is the Licensing Board for General Contractors adequately funded?

 5 Yes 0 No

Board Member #4: “Yes, for now.”

Board Member #5: “If the economy stabilizes.”

Question #4

Is the Licensing Board for General Contractors is adequately staffed?

 4 Yes 1 No

Question #5

Does the Licensing Board for General Contractors receive regular reports on the operations of the board from the chief administrative officer?

 5 Yes 0 No

Board Member #3: [REDACTED] is doing an excellent job managing the ALBGC.

Board Member #4: “Yes, at quarterly meetings.”

Board Member #5: “Given at quarterly meetings.”

Question #6

Has the Licensing Board for General Contractors experienced any significant changes to its operations?

 0 Yes 5 No

Question #7

Does the Licensing Board for General Contractors plan any significant changes in its operations?

 3 Yes 2 No

Board Member #3: “We are trying to be more computer-wise by providing reports without hard paper copies.”

Board Member #4: “Yes, going paperless in day-to-day operations and board meetings.”

Board Member #5: “Work toward a paperless board/day to day operations.”

Licensees – General Contractors

Questionnaires were mailed to one hundred licensed general contractors. Fifty-five responded.

Question #1

Do you think regulation of your profession by the Licensing Board for General Contractors is necessary to protect public welfare?

 50 Yes 5 No

Question #2

Do you think any of the Licensing Board for General Contractors' laws, rules, and policies are an unnecessary restriction on the practice of your profession?

 11 Yes 44 No

Question #3

Do you think any of the Licensing Board for General Contractors' requirements is irrelevant to the competent practice of your profession?

 11 Yes 43 No 1 No Opinion

Question #4

Are you adequately informed by the Licensing Board for General Contractors of changes to and interpretations of its positions, policies, rules and laws?

 30 Yes 23 No 1 Unknown 1 No Opinion

Question #5

Has the Licensing Board for General Contractors performed your licensing and renewal in a timely manner?

 52 Yes 3 No

Question #6

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Licensing Board for General Contractors doing to address the issue(s)?

“My profession is o.k. with current rules and regulations.”

“Ensure that all out-of-state contractors are properly licensed and identified. We are getting multiple states participating in our educational work.”

“There seems to be a significant number of unlicensed contractors doing significant work within our cities and communities. We need the public help by not doing business with unlicensed contractors.”

“The application is false and misleading. The Board’s procedures are not reliable or valid when it comes to determining who gets a license.”

“Because of the current economic situation, contractors are not bidding work strictly per plans and specifications and after the bid, they are convincing the architects and owners to do the work according to their bid, not the bidding documents.”

“General Economy. Licensing Board is always working with us.”

“An adequate examination that would certify new general contractor, not some bogus test like Georgia.”

“Regulating contractors that are operating with no license.”

“Need licensing for all work no matter how small.”

“Recession/Bank Lending What can they do?”

“A decline in the availability of work. Licensing Board should be building a more stringent barrier to entry to minimize the market effects caused by the current influx of new, sometimes unqualified and incompetent general contractors.”

“The overall economy and especially the housing market and the large mortgage companies backing out on their commitments. Don’t know.”

“Too much immigrant labor taking jobs from citizens of Alabama. Companies bidding projects below cost, then going out of business and making legitimate contractors unable to acquire contracts at a fair price. The law of attrition will eventually play out, but only the big contractors will remain. Local governments taking bids on contracts yet giving those contracts to the same contractors again and again even though they aren’t the low bidder.”

“I would like to have more information regarding the different sub-categories of licenses that have recently been added and what steps we need to take to obtain some of the new titles.”

Licensee Questionnaire – General Contractors

“Plumbers-----Nothing.”

“No opinion at this time.”

“Non licensed practicing contractors.”

“Specialty Trade of Roofing as we are a roofing contractor. Licensing regulations allows the state and local agencies to know who is qualified to perform work. Improvement could be made by requirements for continuing education programs as a requirement for renewal and updating the test materials.”

“Unlicensed Contractors.”

“Too many jobs are bid below cost; should be a limit on how low a contractor can go.”

Question #7

Do you think the Licensing Board for General Contractors and its staff are satisfactorily performing their duties?

 34 Yes 3 No 10 Unknown 8 No Opinion

Question #8

Has any member of the Licensing Board for General Contractors or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

 54 No 1 No Response

Licensees – Subcontractors

Questionnaires were mailed to one hundred licensed subcontractors. Fifty nine responded.

Question #1

Do you think regulation of your profession by the Licensing Board for General Contractors is necessary to protect public welfare?

 45 Yes 13 No 1 Unknown

Question #2

Do you think any of the Licensing Board for General Contractors' laws, rules, and policies are an unnecessary restriction on the practice of your profession?

 13 Yes 46 No

Question #3

Do you think any of the Licensing Board for General Contractors' requirements is irrelevant to the competent practice of your profession?

 16 Yes 40 No 3 No Opinion

Question #4

Are you adequately informed by the Licensing Board for General Contractors of changes to and interpretations of its positions, policies, rules and laws?

 30 Yes 27 No 1 Unknown 1 No Opinion

Question #5

Has the Licensing Board for General Contractors performed your licensing and renewal in a timely manner?

 56 Yes 3 No

Question #6

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Licensing Board for General Contractors doing to address the issue(s)?

“(a) Contractor’s “fudging” the rules. Writing multiple contracts to fit under the \$50,000.00 limit. (b) Sub-contractors subbing their work out to contractors that use illegal immigrants.

(c) Enforcing illegal immigrants or the use of them.

“The economy and lack of business.”

“Insurance and bad economy.”

“Finding qualified employees (Don’t know what the board could do).”

“Unlicensed contractors doing electrical work. (Nothing).”

“Unfair job market where large companies will pay what they want to smaller contracting companies and some smaller companies are unsafe to work for.”

“They are giving out of state business where we have so many contractors in Alabama.”

“Wasting money of small business by requiring licensing that does not improve contractor performance. This questionnaire is the first sign of the board trying to address this.”

“Requiring an electrical contractor to have a general contractor (GC) license.”

“We are a commercial cabinet company doing business in the southeast. We are faced with having to buy licenses and pay taxes at every level of government from city to county to state. Not only is it cost prohibitive but it is a filing nightmare. Once you do business in a city or county you are expected to file returns monthly or quarterly from then on. It is as though Alabama does not want business. Everyone has their hand out. I am not aware of anything the licensing board can do about this issue but I hear it from other people doing business in Alabama also.”

“No opinion at this time.”

“Raise the benchmark for quality construction work by licensing contractors, the Licensing Board takes serious the public welfare of its citizens, I support licensing.”

“We are out of state subs.”

“I am charged to work in Alabama by privileges taxation even though I only do a job in Alabama maybe once every four years.”

“The most significant issues are knowledge of construction and the cost involved in getting information.”

“Out of state contractors taking work away from local and state projects.”

“Lack of jobs.”

“I am a licenses mechanical contractor in Georgia, Florida, South Carolina, North Carolina, Tennessee and Alabama. There is no “Licensing Board for General Contractors” requirement in other states.

Licensee Questionnaire – Subcontractors

“Limitations on dollar amount of jobs that can be bid by subcontractors even if their balance sheet is better than most G.C.’s.”

“In our limited exposure we have no issues with the Board.”

“The system protects the established contractors and helps keep out the young people.”

“At this time, we have no issues.”

“Loss of jobs in construction.”

“Finding jobs.”

Question #7

Do you think the Licensing Board for General Contractors and its staff are satisfactorily performing their duties?

29 Yes 3 No 17 Unknown 10 No Opinion

Question #8

Has any member of the Licensing Board for General Contractors or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

58 No 1 No Response

Complainants

Questionnaires were mailed to thirty-eight complainants. Twenty two responded.

Question #1

Was your complaint filed with the State Licensing Board for General Contractors by:

 3 Mail 15 Phone 1 Fax
 2 Other 1 Unknown

Question #2

Was receipt of your complaint promptly acknowledged?

 19 Yes 2 No 1 Unknown

 If yes, approximately how long after you filed your complaint were you contacted by the State Licensing Board for General Contractors?

 10 Immediately 8 Within 10 days 3 Did not respond
 1 Unknown

Question #3

Was the employee who responded to your complaint knowledgeable and courteous?

 4 Knowledgeable 4 Courteous 12 Both
 1 Neither 1 Unknown

Question #4

Did the State Licensing Board for General Contractors communicate the results of investigating your complaint to you?

 15 Yes 6 No 1 Unknown

Question #5

Do you think the State Licensing Board for General Contractors did everything it could to resolve your complaint?

 12 Yes 5 No 5 Unknown

Question #6

Were you satisfied with your dealings with the State Licensing Board for General Contractors?

12 Yes

9 No

1 Unknown

“I would like to know the outcome. I was not told the results that contractor should not be licensed. He has no respect for plan & specification.”

“I had to pay an exorbitant rate to obtain some document by subpoena.”

“I would like to know the final results of my complaint. [REDACTED] was the company, if there were fines or other consequences. They still don’t have a good reputation for their work.”

“If you check your paper work on complaints you will find mine under done in person. The two companies, individuals that I was concerned with were allowed to continue doing business. They later bet people out of money, went broke, and filed bankruptcy. Is this what our system is designed for? I have enclosed my card and I will be proud to discuss with anyone. – From a pool builder trying to do the right thing, I think this board is a joke.”

APPENDICES

SMART Performance Reports

Monday, December 07, 2009
EBO Form 10

FY 09 SMART Quarterly Performance Report Basic Agency

Page 1 of 3

Agency:	324 - Contractors, State Licensing Board for General			Program:	653 - PRO AND OCCU LICENSING AND REG					
Organization:	-			Activity:	-					
Mission:	To safeguard life, health, and property and to promote the general public welfare by requiring that only properly qualified persons be permitted to engage in general contracting.									

Workload Measures and Quarterly Projections										
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload Measure	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
W1: Number of new applications received.	328	376	328	403	353	352	301	385	1310	1516
W2: Number of renewals forms ready to be processed.	2160	2450	997	895	2906	3050	2243	2949	8306	9344

Monday, December 07, 2009
EBO Form 10

FY 09 SMART Quarterly Performance Report Basic Agency

Page 2 of 3

Agency: 324 - Contractors, State Licensing Board for General				Program: 653 - PRO AND OCCU LICENSING AND REG							
Organization: -				Activity: -							
Key Goal:											
Goal 1	To reduce the amount of renewal forms returned because of wrong or incomplete information provided by the general contractor to 5% by the year 2010.								Governor's Priority:	2	
Objectives and Quarterly Targets:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives	Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Efficiency) Decrease the percentage of renewal forms returned.	% of renewals returned	--	18%	--	14%	--	16%	--	19%	15%	19%

FY 09 SMART Quarterly Performance Report

Basic Agency

How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2008-09 affected your agency in meeting its desired accomplishments and services?

Decision to cut personnel and budget affected our ability to provide excellent services.

What administrative improvements did your agency make in fiscal year 2008-09 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.

Change in statutes allowed subcontractor licenses to be expedited in time and number. This will help in the future. Change in statute will also help contractors with bid limits.

FY 10 SMART Quarterly Performance Report

Basic Agency

Agency:	324 - Contractors, State Licensing Board for General				Program:	653 - PRO AND OCCU LICENSING AND REG					
Organization:	-				Activity:	-					
Mission:	To safeguard life, health, and property and to promote the general public welfare by requiring that only properly qualified persons be permitted to engage in general contracting.										
Workload Measures and Quarterly Projections											
	First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual		
Workload Measure	Projected	Actual	Projected	Actual	Projected	Actual*	Projected	Actual*	Projected	Actual	
W1: Number of renewal forms processed.	2327	2392	849	1058	2940		2605		8721		
W2: Number of new applications received.	365	324	391	306	341		279		1376		
* Actual workload data is not currently available for this quarter.											

FY 10 SMART Quarterly Performance Report

Basic Agency

Agency: 324 - Contractors, State Licensing Board for General				Program: 653 - PRO AND OCCU LICENSING AND REG								
Organization: -				Activity: -								
Key Goal:												
Goal 1	To reduce the amount of renewal forms returned because of wrong or incomplete information provided by the general contractor to 5% by the year 2010.								Governor's Priority:		2	
Objectives and Quarterly Targets:												
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual		
Objectives		Unit of Measure	Target	Actual	Target	Actual	Target	Actual*	Target	Actual*	Target	Actual*
(O1-Efficiency) Decrease the percentage of renewal forms returned.		% of renewals returned	--	13%	--	10%	--		--		5%	
* Actual performance data is not currently available for this quarter.												

FY 10 SMART Quarterly Performance Report

Basic Agency

Agency: 324 - Contractors, State Licensing Board for General						Program: 653 - PRO AND OCCU LICENSING AND REG					
Organization: -						Activity: -					
Key Goal:											
Goal 2	Maintain expenditures per licensee at or below \$144 through the FY10.								Governor's Priority:	2	
Objectives and Quarterly Targets:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives	Unit of Measure	Target	Actual	Target	Actual	Target	Actual*	Target	Actual*	Target	Actual*
(O1-Efficiency) Maintain expenditures per licensee at or below \$144 through FY 10	\$ Expenditure per licensee (expend/ #of licensees)	--	n/a	--	N/A	--		--		\$144	
* Actual performance data is not currently available for this quarter.											

Item # Notes

O1-	This measurement is done at the end of the fiscal year.
O1-	Measurement is calculated at the end of the fiscal year.

Statutory Authority

CHAPTER 8. CONTRACTORS.

§ 34-8-1. Definitions.

Current through End of 2009 Regular and First Special Sessions.

(a) For the purpose of this chapter, a "general contractor" is defined to be one who, for a fixed price, commission, fee, or wage undertakes to construct or superintend or engage in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving or project or any improvement in the State of Alabama where the cost of the undertaking is fifty thousand dollars (\$50,000) or more, shall be deemed and held to have engaged in the business of general contracting in the State of Alabama.

(b) For the purpose of this chapter, a "general contractor" is defined to include one who, for a fixed price, commission, fee, or wage exceeding five thousand dollars (\$5,000), undertakes to construct, superintend the construction of, repair, or renovate, any swimming pool, and anyone who shall engage in the construction, superintending of the construction, repair, or renovation of any swimming pool in the State of Alabama, where the cost of the undertaking exceeds five thousand dollars (\$5,000), shall be deemed and held to have engaged in the business of general contracting in the State of Alabama and shall be subject to this chapter.

(c) For the purpose of this chapter a "subcontractor" is defined to be one who constructs, superintends, or engages in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving, or project or any improvement in the State of Alabama where the cost of the undertaking is fifty thousand dollars (\$50,000) or more under contract to general contractor as defined in subsection (a) or another subcontractor.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 1; Code 1940, T. 46, § 65; Acts 1959, No. 571, p. 1429, § 1; Acts 1989, No. 89-648, p. 1278, § 1; Acts 1996, No. 96-640, p. 1013, § 1; Acts 1997, No. 97-270, p. 486, § 1; Act 2003-142, p. 441, § 3; Act 2009-725, § 1.)

§ 34-8-2. Licensure and classification of contractors.

Current through End of 2009 Regular and First Special Sessions.

(a) Any person desiring to be licensed or desiring a renewal of an existing license as a general contractor in this state shall be a citizen of the United States or, if not a citizen of the United States, a person who is legally present in the United States with appropriate documentation from the federal government, and shall make and file with the board, not less than 30 days prior to any regular meeting thereof, a written application on a form as prescribed for examination by the board and the application shall be accompanied by three hundred dollars (\$300) for a new application or two hundred dollars (\$200) in case of a renewal. If a licensee fails to renew his or her license within 90 days following expiration of the previous license, a late penalty of fifty dollars (\$50) shall be collected, upon renewal, in addition to the renewal fee. The applicant shall apply for a license covering the type or types of contracts on which he or she

wishes to perform, and shall provide proof of liability insurance. The board shall classify contractors according to the type or types of contracts on which they may perform, within maximum bid limits, on the following basis: The applicant's request, his or her last annual financial statement prepared by a certified public accountant (C.P.A.) or by any independent licensed public accountant approved by the Licensing Board for General Contractors, his or her previous experience, equipment, and the facts in each case. An applicant shall not be so classified as to permit him or her to bid on or to perform a type of work not included in his or her request for a license. If the application is satisfactory to the board, then the applicant may be required to take an examination to determine his or her qualifications. If the result of the examination of the applicant is satisfactory to the board, the board shall then issue to the applicant a certificate to engage in general contracting in the State of Alabama, stipulating in each license issued the type or types of work the contractor is permitted to bid on or to perform under his or her license and also setting out a letter symbol indicating the maximum limits on which he or she is permitted to bid or to perform in a single contract. The maximum bid limits shall be set by the formula of not more than 10 times either the net worth or working capital, whichever is the lesser amount, as shown by the applicant's latest financial statement and designated in the classification set out herein that is the closest to this amount. Should the financial statement of the applicant fail to substantiate the limits requested, further consideration may be given to either of the following: (1) the present market value in lieu of book value of listed assets when properly supported with substantiating evidence, including a combined statement of the applicant that includes other wholly owned or substantially owned interests, or (2) the applicant may furnish a bond acceptable to the board equal in the amount of the applicant's negative working capital or net worth plus the amount of such net worth and working capital to satisfy the requested bid limit. When an applicant's statement qualifies for an amount in excess of classification "E", the limits shall then be set as classification Unlimited or "U". The following letter symbols indicate the maximum amount bid limits allowed a licensee on any one single contract undertaking:

A--Not to exceed	\$100,000.00
B--Not to exceed	250,000.00
C--Not to exceed	500,000.00
D--Not to exceed	1,000,000.00
E--Not to exceed	3,000,000.00
U--Unlimited	

(b) Any person failing to pass the examination may be reexamined at any regular or called meeting of the board. The certificate of authority to engage in the business of general contracting in the State of Alabama shall expire 12 months following its issuance or renewal and shall become invalid on that date unless renewed. The board may provide for a transitional period following May 19, 1999, during which licenses may be renewed for less than 12 months, or more than 12 months, in order to implement a staggered license renewal schedule in which licenses would be renewed each month throughout the year. Once the transitional period is completed, each license shall be renewed for a 12-month period. The board may promulgate rules and regulations relating to the procedures for renewal of licenses. Upon the renewal of a license, the board shall reclassify or confirm the license both as to the types of work and bid limits as specified in this section. A licensee may apply for and, on proof satisfactory to the

board, may receive an increase in the amount of his or her bid limit or a change in his or her classification. Application for renewal of a license, together with the payment of a fee of two hundred dollars (\$200), received by the board at least 30 days prior to expiration, shall serve to extend the current license until the board either renews the license or denies the application. At the discretion of the board, a limited license may be issued for a particular project.

The sum or fee of three hundred dollars (\$300) accompanying original applications and sum or fee of two hundred dollars (\$200) accompanying applications for renewals under this section are for the administration and enforcement of this chapter and shall not be refunded to the applicant.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 9; Code 1940, T. 46, § 73; Acts 1959, No. 571, p. 1429, § 1; Acts 1961, Ex. Sess., No. 150, p. 2093, § 1; Acts 1975, No. 485, p. 1115, § 1; Acts 1982, No. 82-400, p. 603, § 4; Acts 1986, No. 86-557, p. 1133, § 3; Acts 1991, No. 91-197, p. 361, § 3; Acts 1996, No. 96-640, p. 1013, § 1; Act 99-199, p. 251, § 3; Act 2008-134, p. 199, § 3; Act 2009-725, § 1.)

§ 34-8-3. Method of examination.

Current through End of 2009 Regular and First Special Sessions.

When the board conducts an examination of an applicant for a license, as much as three days may be devoted to written or oral examination, within the discretion of the board, to ascertain the ability of the applicant to make a practical application of his knowledge of the profession of general contracting; and the board shall investigate thoroughly the financial responsibility and past record of all applicants, which will include an effort towards ascertaining the qualifications of an applicant in reading plans and specifications, estimating costs, construction ethics and other similar matters. The board shall take all applicants under consideration after having examined them and go thoroughly into the records, oral and written examinations prior to granting any certificate of license. If an applicant is an individual, examination may be taken by his personal appearance for examination, or by the appearance for examination of one or more of his responsible managing employees, and if a copartnership or corporation, or any other combination or organization, by the examination of one or more of the responsible managing officers or members of the executive staff of the applicant's firm according to its own designation.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 9 1/2 ; Code 1940, T. 46, § 74; Acts 1959, No. 571, p. 1429, § 1.)

§ 34-8-4. Fines; revocation of licenses.

Current through End of 2009 Regular and First Special Sessions.

(a) The board may levy and collect an administrative fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) for any violation of any provision of this chapter or the rules and regulations of the board.

(b) The board may also revoke the certificate of license of any general contractor licensed hereunder who is found guilty of any fraud or deceit in obtaining a license or gross negligence,

incompetence or misconduct in the conduct of business. Any person may prefer charges of the fraud, deceit, negligence, or misconduct against any general contractor licensed hereunder. The charges shall be in writing and sworn to by the complainant and submitted to the board. The charges, unless dismissed without hearing by the board as unfounded or trivial, shall be heard and determined by the board within 90 days after the date on which they were preferred. The hearing shall be held at the office of the State Licensing Board for General Contractors in Montgomery, Alabama. A copy of the charges, together with the notice of the time and place of hearing, shall be legally served on the accused by the secretary of the board, any sheriff in the state or by registered or certified mail, at least 10 days before the fixed date for the hearing. In the event that the service cannot be effected 10 days before the hearing, then the date of hearing and determination shall be postponed as may be necessary to permit the carrying out of the aforementioned condition. At the hearing the accused shall have the right to appear personally and by counsel and to cross-examine witnesses against him, her, or them and to produce evidence of witnesses in his, her, or their defense. If, after the hearing, the board votes in favor of finding the accused guilty, the board shall revoke the license of the accused. The board may reissue a license to any person, firm, or corporation whose license has been revoked. The board shall immediately notify the Secretary of State and the clerk of each incorporated city, town, or county in the state of its findings in the case of the revocation or of the reissuance of a revoked license. A certificate of license to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules and regulations of the board.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 10; Code 1940, T. 46, § 75; Acts 1959, No. 571, p. 1429, § 1; Acts 1982, No. 82-400, p. 603, § 4; Acts 1991, No. 91-197, p. 361, § 3; Acts 1996, No. 96-640, p. 1013, § 1; Act 99-199, p. 251, § 3.)

§ 34-8-5. Effect of issuance of certificate of license.

Current through End of 2009 Regular and First Special Sessions.

The issuance of a certificate by the board shall be evidence that the person, firm or corporation named therein is entitled to all the rights and privileges of a licensed general contractor to perform work of the types and amounts specified in the license issued to him or it while the said license remains unrevoked or unexpired.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 11; Code 1940, T. 46, § 76; Acts 1959, No. 571, p. 1429, § 1.)

§ 34-8-6. Prohibited acts; penalties; cease and desist orders.

Current through End of 2009 Regular and First Special Sessions.

(a) Any person, firm, or corporation not being duly authorized who shall engage in the business of general contracting in this state, except as provided for in this chapter, and any person, firm, or corporation presenting or attempting to file as its own the license certificate of another, or who shall give false or forged evidence of any kind to the board, or to any member thereof, in obtaining a certificate of license, or who falsely shall impersonate another, or who shall use an expired or revoked certificate of license shall be deemed guilty of a Class A misdemeanor and for each offense for which he or she is convicted shall be punished as provided by law.

Furthermore, any person including an owner, architect, engineer, construction manager, or private awarding authority who considers a bid from anyone not properly licensed under this chapter shall be deemed guilty of a Class B misdemeanor and shall for each offense of which he or she is convicted be punished as provided by law.

(b) Every person, firm, or corporation licensed pursuant to this chapter shall include his or her license number in all construction contracts, subcontracts, bids, and proposals. Any person, firm, or corporation violating this provision shall be guilty of a Class B misdemeanor and shall for each offense of which he or she is convicted be punished as provided by law.

(c) In addition to or in lieu of the criminal penalties and administrative sanctions provided in this chapter, the board may issue an order to any person, firm, or corporation engaged in any activity, conduct, or practice constituting a violation of this chapter, directing the person, firm, or corporation to forthwith cease and desist from the activity, conduct, practice, or the performance of any work then being done or about to be commenced. The order shall be issued in the name of the State of Alabama under the official seal of the board. If the person, firm, or corporation to whom the board directs a cease and desist order does not cease or desist the proscribed activity, conduct, practice, or performance of work immediately, the board shall cause to issue in any court of competent jurisdiction and proper venue, a writ of injunction enjoining the person, firm, or corporation from engaging in any activity, conduct, practice, or performance of work as prohibited by this chapter. Upon showing by the board that the person, firm, or corporation has engaged or is engaged in any activity, conduct, practice, or performance of work prohibited by this chapter, the courts shall issue a temporary restraining order restraining the person, firm, or corporation from engaging in such unlawful activity, conduct, practice, or performance of work pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after the hearing, commanding the cessation of the unlawful activity, conduct, practice, or performance of work complained of, all without the necessity of the board having to give bond. A temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to this subsection shall not be subject to being released on bond. In the suit for an injunction, the board may demand of the defendant a fine of up to five thousand dollars (\$5,000) plus costs and attorney fees for each offense. A judgment for penalty, attorney fees, and costs may be rendered in the same judgment in which the injunction is made absolute. The trial of the proceeding by injunction shall be summary and by the trial judge without jury. Anyone violating this chapter who fails to cease work, after a hearing and notification from the board, shall not be eligible to apply for a contractor's license for a period not to exceed one year from the date of official notification to cease work. It shall be within the power of the board to withhold approval, for up to six months, of any application from anyone who prior to the application has been found in violation of this chapter.

(d) The submission of the contractor's current license number before considering the bid shall be sufficient evidence to relieve the owner, architect, engineer, construction manager, or awarding authority of any liability under this chapter.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 12; Code 1940, T. 46, § 77; Acts 1959, No. 571, p. 1429, § 1; Acts 1996, No. 96-640, p. 1013, § 1; Act 99-199, p. 251, § 3; Act 2009-725, § 1.)

§ 34-8-7. Exemptions from chapter; subcontractor requirements. [AL ST SEC 34-8-7]

Current through End of 2009 Regular and First Special Sessions.

(a) The following shall be exempted from this chapter:

(1) The practice of general contracting, as defined in Section 34-8-1, by an authorized representative or representatives of the United States Government, State of Alabama, incorporated town, city, or county in this state, which is under the supervision of a licensed architect or engineer and any work contracted out by the representative shall comply with the provisions of this chapter for "general contractor."

(2) The construction of any residence or private dwelling.

(3) A person, firm, or corporation constructing a building or other improvements on his, her, or its own property provided that any of the work contracted out complies with the definition in this chapter for "general contractor."

(4) The installation, repair, maintenance, or removal of facilities, equipment, or systems used in or substantially related to the generation, transmission, or distribution of electric power, natural gas, or telecommunications in an emergency by a utility regulated by the Public Service Commission, or any entity engaged in the generation, transmission, or distribution of electric power, natural gas, or telecommunications, or any of their respective general contractors or subcontractors, provided the work is performed under the supervision of a licensed architect or engineer. For purposes of this subdivision, the term "emergency" is defined as a situation whereby service to the consumer has been interrupted or may be interrupted if work to remedy the emergency is not performed and completed within 60 days, and such other situations that are determined to be an emergency in the discretion of the board.

(5) The repair, maintenance, replacement, reinstallation, or removal of facilities, equipment, or systems used in or substantially related to the generation, transmission, or distribution of electric power, natural gas, or telecommunications on a routine, regular, or recurring basis by a utility regulated by the Public Service Commission or any entity engaged in the generation, transmission, or distribution of electric power, natural gas, or telecommunications or any of their respective general contractors or subcontractors, provided the work is performed under the supervision of a licensed architect or engineer.

(6) Routine or regular maintenance, repair, replacement, reinstallation, or removal of equipment, specialized technological processes, or equipment facility systems as determined by the board with regard to scope, frequency, and specialty of the work to be performed.

(b) The aforementioned exemptions shall exclude a swimming pool contractor. Provided, however, a person, firm, or corporation constructing a swimming pool on his, her, or its own property shall be exempted from this chapter.

(c) A subcontractor, as defined in subsection (c) of Section 34-8-1, is subject to and shall comply with all the provisions of this chapter as specified for general contractor except as follows:

(1) A subcontractor shall pay one-half the fees as required in this chapter for general contractor.

(2) No bid limits shall be established for a subcontractor.

(3) A subcontractor shall submit with license application and renewals a statement of financial condition as prescribed by the board.

(4) A subcontractor shall furnish three references from any combination of the following: Licensed general contractors, registered professional engineers, or registered architects, or qualified person, as declared by the board, for whom they have worked. If a subcontractor has only been employed by one company, the subcontractor shall provide the following: Three or more jobs he or she has worked on, the amounts of the contracts, the time period of the contracts, the location of the contracts, and a statement of experience.

(5) A subcontractor is not required to be licensed at the time a project is bid, but must be licensed with the board prior to beginning work on the project.

(6) A general contractor license and license number issued by the board to subcontractors shall denote subcontractor status.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 13; Code 1940, T. 46, § 78; Acts 1959, No. 571, p. 1429, § 1; Acts 1989, No. 89-648, p. 1278, § 2; Acts 1996, No. 96-640, p. 1013, § 1; Acts 1997, No. 97-270, p. 486, § 1; Act 99-199, p. 251, § 3; Act 2009-725, § 1.)

§ 34-8-8. Copy of chapter to be included in plans of owners, architects, and engineers; inclusion of license number on bid.

Current through End of 2009 Regular and First Special Sessions.

(a) All owners, architects, engineers, construction managers, and private awarding authorities preparing plans and specifications for work to be contracted in Alabama pursuant to this chapter shall include in their invitations to bidders, including but not limited to all public and private advertisements, and their specifications a copy of the portions of this chapter as are deemed necessary to convey to the invited bidder, whether he or she is a resident or nonresident of this state and whether a license has been issued to him or her or not, the information that it will be necessary for him or her to show evidence of license before his or her bid is considered. Any person including an owner, architect, engineer, construction manager, or private awarding authority who violates this section shall be guilty of a Class B misdemeanor and shall for each offense of which he or she is convicted be punished, fined, or both, in accordance with Sections 13A-5-7 and 13A-5-12.

(b) All owners, architects, engineers, construction manager, or private awarding authority receiving bids pursuant to this chapter shall require the person, firm, or corporation to include his or her current license number on the bid. The owner, architect, engineer, construction manager, or private awarding authority shall reject all bids that do not contain the current license number of the general contractor submitting the bid. All persons who violate this subsection shall be guilty of a Class C misdemeanor and shall for each offense for which he or she is convicted be punished, fined, or both, in accordance with Sections 13A-5-7 and 13A-5-12.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 14; Code 1940, T. 46, § 79; Acts 1959, No. 571, p. 1429, § 1; Acts 1996, No. 96-640, p. 1013, § 1; Act 2009-725, § 1.)

§ 34-8-9. Issuance of building permits.

Current through End of 2009 Regular and First Special Sessions.

Any person, firm, or corporation, upon making application to the building inspector or such other authority of any incorporated city, town, village, or county in Alabama charged with the duty of issuing building or other permits for the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure site work, grading, paving or project or any improvement where the cost of the undertaking is fifty thousand dollars (\$50,000) or more, shall, before he or she shall be entitled to the issuance

of permits, furnish satisfactory proof to the inspector or authority that he or she is duly licensed under this chapter. It shall be unlawful for the building inspector or other authority to issue or allow the issuance of the building permit unless and until the applicant has furnished evidence that he or she is either exempt from this chapter or is duly licensed under this chapter to carry out or superintend the work for which the permit has been applied. The building inspector, or other authority, violating the terms of this section shall be guilty of a Class C misdemeanor and shall for each offense of which he or she is convicted be punished in accordance with Sections 13A-5-7 and 13A-5-12.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 15; Code 1940, T. 46, § 80; Acts 1947, No. 402, p. 293, § 1; Acts 1959, No. 571, p. 1429, § 1; Acts 1987, No. 87-175, p. 236, § 3; Acts 1996, No. 96-640, p. 1013, § 1; Acts 1997, No. 97-270, p. 486, § 1.)

§ 34-8-10. Indictment or complaint.

Current through End of 2009 Regular and First Special Sessions.

In all prosecutions for the violation of the provisions of Section 34-8-6 for engaging in the business of general contracting without a certificate of authority, it shall be sufficient to allege in the indictment, affidavit or complaint that "A. B. unlawfully engaged in business as a general contractor, without authority from the licensing board for contractors so to do."

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 16; Code 1940, T. 46, § 81; Acts 1959, No. 571, p. 1429, § 1.)

§ 34-8-20. Creation; composition; appointment and removal of members.

Current through End of 2009 Regular and First Special Sessions.

In order to safeguard life, health, and property and to promote the general public welfare by requiring that only properly qualified persons be permitted to engage in general contracting, there shall be a State Licensing Board for General Contractors, consisting of five members, who shall be citizens of this state and appointed by the Governor. Each of the members shall be a general contractor, within the meaning of this chapter, with at least 10 years' experience in the field as a contractor. At least one member of the board shall have as a larger part of his or her business the construction of highways. At least one member of the board shall have as a larger part of his or her business the construction of public utilities. At least one member shall have as a larger part of his or her business the construction of buildings. The members of the board shall be appointed for one, two, three, four, and five years respectively, their terms of office expiring on December 31 of those years. Thereafter, on the thirty-first day of December in each year the Governor shall appoint to fill the vacancies caused by the expiration of the term of office a member for a term of five years. In appointing members to the board, the Governor shall select those persons whose appointments, to the extent possible, ensure that the membership of the board is inclusive and reflects the racial, gender, urban/rural, and economic diversity of the state. Each member shall hold over after the expiration of his or her term until his or her successor shall be duly appointed and qualified. If a vacancy shall occur on the board for any cause, the

vacancy shall be filled by the appointment of the Governor, and the Governor may remove any member of the board at any time, with or without cause.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 2; Code 1940, T. 46, § 66; Acts 1959, No. 571, p. 1429, § 1; Acts 1996, No. 96-640, p. 1013, § 1; Act 99-199, p. 251, §§ 2, 3; Act 2003-142, p. 441, § 3; Act 2008-134, p. 199, § 3.)

§ 34-8-21. Oath of board.

Current through End of 2009 Regular and First Special Sessions.

Each member of the board shall before entering upon the discharge of the duties of his office take and file with the Secretary of State the oath required by Section 279 of the Constitution of Alabama.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 3; Code 1940, T. 46, § 67; Acts 1959, No. 571, p. 1429, § 1.)

§ 34-8-22. Officers; bonds; compensation and expenses; rules and regulations.

Current through End of 2009 Regular and First Special Sessions.

When the Governor appoints the board, he or she shall designate and commission one member as the chairperson, another as vice-chairperson, and another as secretary-treasurer. The board may make the bylaws, rules, and regulations as it shall deem best, provided the same shall not conflict with the laws of the State of Alabama. The secretary-treasurer shall give bond in the sum as the board shall determine with the surety as shall be approved. The bond shall be conditioned upon the faithful performance of the duties of the office and for the faithful accounting of all moneys and other properties as shall come into his or her hands. Each member of the board shall receive two hundred dollars (\$200) per day for attending sessions of the board or its committees, and for time actually spent in necessary travel in attending meetings of the board or its committees and in addition shall be reimbursed for necessary travel expenses as are paid to state employees incurred in carrying out this chapter. All expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including authorized compensations, office rent, and supplies shall be paid out of the State Licensing Board for the General Contractors' Fund in the State Treasury in the manner provided in Section 34-8-25, provided, that no funds shall be withdrawn or expended except as budgeted and allotted according to the provisions of Article 4 of Chapter 4 of Title 41, and only in the amounts as stipulated in the general appropriation bill.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 4; Code 1940, T. 46, § 68; Acts 1951, No. 835, p. 1466, § 1; Acts 1959, No. 571, p. 1429, § 1; Acts 1980, No. 80-698, p. 1404, § 1; Acts 1996, No. 96-640, p. 1013, § 1.)

§ 34-8-23. Seal.

Current through End of 2009 Regular and First Special Sessions.

The board shall adopt a seal for its own use. Such seal shall have the words "License Board for Contractors, State of Alabama," and the secretary shall have the charge, care and custody thereof.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 5; Code 1940, T. 46, § 69; Acts 1959, No. 571, p. 1429, § 1.)

§ 34-8-24. Meetings; quorum.

Current through End of 2009 Regular and First Special Sessions.

The board shall have four regular meetings in each year, one in January, one in April, one in July, and one in October, for the purpose of transacting business which may properly come before it, and as many special or adjourned meetings as the board may deem necessary, on call of the chair of the board. Special or adjourned meetings may be held at the time the board provides in the bylaws or at a time the board may provide by reasonable resolution. Due notice of each regular meeting and the time and place thereof shall be given to each member by mail at least one week prior to the meeting. Three members of the board shall constitute a quorum.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 6; Code 1940, T. 46, § 70; Acts 1959, No. 571, p. 1429, § 1; Acts 1986, No. 86-557, p. 1133, § 3; Acts 1996, No. 96-640, p. 1013, § 1.)

§ 34-8-25. Records and accounts.

Current through End of 2009 Regular and First Special Sessions.

The secretary-treasurer shall keep a record of the proceedings of said board, shall receive and account for all the moneys derived from the operation of this chapter and shall deposit, or cause to be deposited, all such moneys in the State Treasury to the credit of the State Licensing Board for General Contractors; and said funds shall be subject to withdrawal only upon warrant of the state Comptroller to be issued upon certificate or voucher certified by the secretary-treasurer of the board. Any funds remaining in the State Treasury to the credit of the State Licensing Board for General Contractors at the end of each year shall be paid into the General Fund of the state on or before January 15 in each succeeding year. The board has the right, however, at all times to retain a sum not in excess of 33 percent of its budget of the previous year to meet any emergency that may arise which may affect its efficient operation.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 7; Code 1940, T. 46, § 71; Acts 1951, No. 835, p. 1466, § 2; Acts 1975, No. 485, p. 1115, § 1; Acts 1991, No. 91-197, p. 361, § 3; Act 2008-134, p. 199, § 3.)

§ 34-8-26. Register of applicants; roster of contractors; annual report; investigation and report of complaints.

Current through End of 2009 Regular and First Special Sessions.

The secretary-treasurer shall keep a record of the proceedings of the board and a register of the applicants for license, showing for each the date of application, name, qualifications, place of business and whether the license was granted or refused. The books and register of this board shall be prima facie evidence of all matters recorded therein, and a certified copy of such books or register, under the seal of the board, attested by its secretary, shall be received in evidence in all courts in this state in lieu of the original.

A roster showing the names and places of business of all licensed general contractors shall be prepared by the secretary of the board as soon as convenient after the board first meets each year. Such roster, which shall include a copy of the licensing law, shall be printed by the board out of funds of said board, as provided in Section 34-8-25, and a copy mailed to and placed on file by the clerk of each incorporated city and town in the state and to and by the probate judge of each county in the state.

On or before March 1 of each year, the board shall submit to the Governor a report of its transactions for the preceding year and shall file with the Secretary of State a copy of such report, together with a complete statement of receipts and expenditures of the board, attested by the affidavit of the chairman and secretary and a copy of said roster of licensed general contractors.

It shall be the duty of the secretary-treasurer to investigate and report to the board each complaint filed relative to violation of this chapter.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 8; Code 1940, T. 46, § 72; Acts 1959, No. 571, p. 1429, § 1.)

§ 34-8-27. Appeals.

Current through End of 2009 Regular and First Special Sessions.

Any party aggrieved by any decision of the State Licensing Board, either in denying an application for license as a general contractor or in revoking a license, may appeal to the Circuit Court of Montgomery County by filing a bond with the clerk of said court, conditioned to pay all costs of the appeal. Upon notice of said appeal being served upon the Licensing Board, an issue shall be made up by the court between the appellant and the Licensing Board, in which the appellant shall allege in what respect the action of the Licensing Board was erroneous and prejudicial to him; whereupon the court shall hear the evidence and, without regard to the decision of the Licensing Board, shall render such decision as the court is of the opinion the Licensing Board should have rendered in the first instance.

CREDIT(S)

(Acts 1935, No. 297, p. 721, § 17; Code 1940, T. 46, § 82; Acts 1959, No. 571, p. 1429, § 1.)

§ 34-8-28. Disposition of funds; annual report.

Current through End of 2009 Regular and First Special Sessions.

(a) An amount of one hundred dollars (\$100) from the fees required for application and renewal for certification and registration of general contractors in Section 34-8-2, and an amount of fifty dollars (\$50) from the fees required for application and renewal of the license of a subcontractor pursuant to Section 34-8-7, shall be distributed by the State Licensing Board for General Contractors at the end of each fiscal year to all accredited public institutions of higher education offering American Council for Construction Education accredited courses in building science, and to all accredited public institutions of higher education offering courses in building science which are in the candidate status of the American Council for Construction Education and to institutions of higher education offering courses leading to a bachelor of civil engineering degree which offers courses in highway engineering and construction at the undergraduate and graduate levels and whose civil engineering program is accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET). Funds identified by the general contractors and subcontractors for building science shall be distributed pro rata among institutions based upon the number of full-time equivalent students enrolled in the department of building science at the institution. Funds identified by the general contractors and subcontractors for civil engineering shall be distributed pro rata among institutions based upon the number of full-time equivalent civil and pre-civil engineering students enrolled at the institution.

(b) Revenue derived from the additional fees for all licenses shall be distributed for (1) building science (general construction) purposes and (2) civil engineering (highway engineering or construction, or both) purposes. Contractors shall be given an opportunity to select which program they want to support.

(c) Revenues derived from the additional fees for all licenses that are not specifically designated by contractors for one of the purposes above, shall be distributed between the programs defined in subsection (a) in a pro rata manner based on the number of full-time equivalent students enrolled in each program at each institution.

(d) Each institution receiving funds pursuant to this article for building science purposes shall utilize the funds for research projects relating to the construction industry, for faculty development, for program enhancement, and for continuing education programs related to construction. The funds shall be administered by a committee appointed by the dean responsible for the building science program, and shall include the head of the department of building science, or comparable position, faculty representatives, and representatives of the building science industry advisory committee of the institution.

(e) Each institution receiving funds pursuant to this article for civil engineering purposes shall utilize the funds to enhance activities in the highway engineering or construction area, or both. This includes but is not limited to scholarships, fellowships, research, faculty development, and continuing education. Funds received pursuant to this article shall be administered by a committee appointed by the dean of engineering. The committee should undertake, as part of its mission, to work with the public and private sectors of the highway industry to encourage student participation in co-op and summer industry employment programs as well as to lead students toward career employment in the highway industry upon graduation.

(f) Each institution receiving funds pursuant to this article shall provide to the board an annual report on or before January 31 for the preceding fiscal year during which the institution received the funds. This report shall disclose the total amount of funds received by the institution pursuant to this article and shall provide an accurate accounting for the utilization of the funds. The report shall disclose sufficient detail to demonstrate compliance with the utilization specifications prescribed in subsections (d) and (e). Responsibility for the reports shall be retained by the administrative committees formed pursuant to subsections (d) and (e) and the dean appointing the committee.

(g) The board shall retain an amount of five percent of the amount to be distributed pursuant to subsection (a) as a fee for administrative expenses associated with the collection and distribution of the funds.

(h) The provisions of this amendatory section are remedial and curative and shall be retroactive to January 1, 1998.

CREDIT(S)

(Acts 1991, No. 91-473, p. 857, §§ 1-4; Acts 1993, No. 93-614, p. 1006, § 1(11); Acts 1996, No. 96-640, p. 1013, § 1; Act 2003-142, p. 441, § 3.)

Alabama Construction Examination Statistics Summary

	1st Time				Repeat				Total		
	Pass	Fail	Total	%	Pass	Fail	Total	%	Total	Pass	% Pass
<u>10/1/05 - 9/30/06</u>											
Ala Building Construction - Commercial	474	63	537	88	52	21	73	71	610	526	86
<u>10/1/06 - 9/30/07</u>											
Ala Building Construction - Commercial	529	49	578	92	46	35	81	57	659	575	87
<u>10/1/07 - 9/30/08</u>											
AL Business and Law	269	39	308	87	19	10	29	66	337	288	85
Ala Bldg Constr (Commercial) - Gen Contr	223	20	243	92	30	16	46	65	289	253	88
Ala Bldg Constr (Commercial) - Bldg Cons	26	32	58	45	17	11	28	61	86	43	50
Building Contr Under Four Stories	2	9	11	18	3	5	8	38	19	5	26
Carpentry and Framing Contr	1	0	1	100	0	0	0	-	1	1	100
Comm Swimmng Pool Contr	3	5	8	38	4	1	5	80	13	7	54
Concrete Contr	0	2	2	0	1	1	2	50	4	1	25
Drainage and Culvert Contr	0	1	1	0	0	2	2	0	3	0	0
Highways and Streets Contr	1	6	7	14	3	10	13	23	20	4	20
Marine Construction Contr	1	0	1	100	0	0	0	-	1	1	100
Municipal and Utility Contr	3	10	13	23	4	11	15	27	28	7	25
Oil and gas Field Proj Contr	0	1	1	0	1	0	1	100	2	1	50
Pipelines Contr	1	0	1	100	0	0	0	-	1	1	100
Remodeling, Alter, and Maint Repair	1	12	13	8	5	16	21	24	34	6	18
Roofing and Sheet Metal Contr	4	1	5	80	0	1	1	0	6	4	67
Sewer Proj Contr	0	1	1	0	1	0	1	100	2	1	50
Sitework Contr	4	3	7	57	3	1	4	75	11	7	64
Structural & Misc Steel Contr	0	3	3	0	3	0	3	100	6	3	50
Telecommunication Projects Contr	1	0	1	100	0	0	0	-	1	1	100
Water Proj Contr	0	1	1	0	0	0	0	-	1	0	0
Total (10/1/07 - 9/30/08) -All Exams	540	146	686	79	94	85	179	53	865	634	73

	1st Time				Repeat				Total		
	Pass	Fail	Total	%	Pass	Fail	Total	%	Total	Pass	%
10/1/08 - 9/30/09											
AL Business and Law	529	53	582	91	36	16	52	69	634	565	89
Ala Bldg Constr (Commercial) - Gen Contr	67	63	130	52	43	42	85	51	215	110	51
Ala Bldg Constr (Commercial) - Bldg Cons	8	2	10	80	0	0	0	-	10	8	80
Building Contr Under Four Stories	11	19	30	37	15	25	40	38	70	26	37
Carpentry and Framing Contr	2	2	4	50	0	0	0	-	4	2	50
Comm Swimmng Pool Contr	5	4	9	56	2	1	3	67	12	7	58
Concrete Contr	4	6	10	40	1	2	3	33	13	5	38
Doors, Windows & Glass w/ Spec Hdw Cor	1	0	1	100	0	0	0	-	1	1	100
Drainage and Culvert Contr	9	2	11	82	1	0	1	100	12	10	83
Erosion Control & Mowing Contr	1	2	3	33	1	1	2	50	5	2	40
Foundations, Pilings, & Cofferdams w/ Ret	1	1	2	50	0	1	1	0	3	1	33
Gas & Oil Projects Contr	5	1	6	83	0	0	0	-	6	5	83
Hard Tile & Stone Contr	0	1	1	0	1	1	2	50	3	1	33
Heavy Railroad Construction Contr (Pre A	1	2	3	33	1	0	1	100	4	2	50
Heavy Railroad Construction Contr	2	0	2	100	0	0	0	-	2	2	100
Highways and Streets Contr	10	10	20	50	6	3	9	67	29	16	55
Hot & Cold Asphalt Plant Mix Paving Contr	2	0	2	100	0	0	0	-	2	2	100
Lath & Plaster Contr	1	0	1	100	0	0	0	-	1	1	100
Marine Construction Contr	2	2	4	50	1	4	5	20	9	3	33
Masonry Contr	1	0	1	100	0	0	0	-	1	1	100
Metal Building Erection Contr	1	5	6	17	1	0	1	100	7	2	29
Metal Stud & Drywall Contr	1	0	1	100	0	0	0	-	1	1	100
Municipal and Utility Contr	10	32	42	24	22	23	45	49	87	32	37
Oil and gas Field Proj Contr	2	1	3	67	1	0	1	100	4	3	75
Pipelines Contr	1	3	4	25	2	3	5	40	9	3	33
Power Proj & Plants Contr	1	0	1	100	0	0	0	-	1	1	100
Remodeling, Alter, and Maint Repair	3	21	24	13	8	19	27	30	51	11	22
Roofing and Sheet Metal Contr	16	2	18	89	3	1	4	75	22	19	86
Runway Contr	4	0	4	100	0	0	0	-	4	4	100
Sewer Proj Contr	6	3	9	67	2	1	3	67	12	8	67
Sitework Contr	6	7	13	46	5	2	7	71	20	11	55
Spec Coatings & Waterproofing Contr	2	0	2	100	0	0	0	-	2	2	100
Structural & Misc Steel Contr	2	2	4	50	2	1	3	67	7	4	57
Telecommunication Projects Contr	1	1	2	50	0	0	0	-	2	1	50
Water Proj Contr	3	5	8	38	4	2	6	67	14	7	50
Total (10/1/08 - 9/30/09) -All Exams	721	252	973	74	158	148	306	52	1279	879	69

Board Members

WAYNE GORDON
Chairman
BIRMINGHAM

FOY TATUM
Vice Chairman
MONTGOMERY

KEITH ANDREWS
Secretary-Treasurer
TUSCALOOSA

CHIP GRIZZLE
Member
BIRMINGHAM

ALEX WHALEY, SR.
Member
TROY



ALABAMA LICENSING BOARD FOR GENERAL CONTRACTORS

(www.genconbd.state.al.us)

JOSEPH C. ROGERS, JR.
EXECUTIVE SECRETARY

2525 FAIRLANE DRIVE
MONTGOMERY, ALABAMA 36116

TELEPHONE NO. 334-272-5030
FAX NO. 334-395-5336

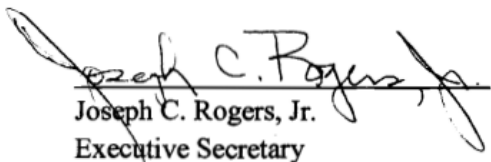
May 28, 2010

Ms. Bilikisu Alabi
Department of Examiners of Public Accounts
P O Box 302251
Montgomery, AL 36130-2251

Dear Ms. Alabi,

Listed below are the current members and officials of the Alabama Licensing Board for General Contractors:

Member	Address	Term Expires
Hon. Wayne Gordon, Chairman	Hoover, AL	December 2013
Hon. Foy Tatum, Vice Chairman	Montgomery, AL	December 2012
Hon. Keith Andrews, Secretary-Treasurer	Tuscaloosa, AL	December 2011
Hon. Chip Grizzle, Member	Birmingham, AL	December 2010
Hon. Alex Whaley Sr., Member	Troy, AL	December 2014


Joseph C. Rogers, Jr.
Executive Secretary

BOARD RESPONSE TO SIGNIFICANT ISSUES

WAYNE GORDON
Chairman
BIRMINGHAM

FOY TATUM
Vice Chairman
MONTGOMERY

KEITH ANDREWS
Secretary-Treasurer
TUSCALOOSA

CHIP GRIZZLE
Member
BIRMINGHAM

ALEX WHALEY, SR.
Member
TROY



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EXECUTIVE SECRETARY

2525 FAIRLANE DRIVE
MONTGOMERY, ALABAMA 36116

TELEPHONE NO. 334-272-5030
FAX NO. 334-395-5336

September 2, 2010

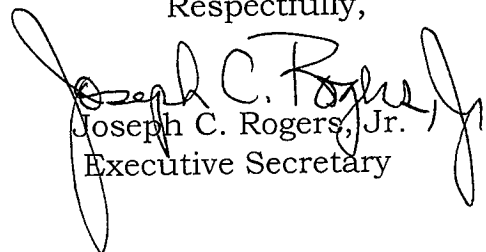
Mr. John E. Norris
Director, Operational Division
Examiners of Public Accounts
Gordon Persons Building
50 North Ripley Street, Room 3201
Montgomery, Alabama 36104

Dear Mr. Norris:

Please find attached our Board's response to the significant issues that will appear in our Sunset Committee report.

If you or your staff have any questions, please give me a call at 334-272-5030.

Respectfully,


Joseph C. Rogers, Jr.
Executive Secretary

Alabama Licensing Board for General Contractors Significant Issues

Significant Issue 2010-01:

The Board believed it was following the statutes when Administrative Rule 230-X-1-.01(4) was written. The Code of Alabama 1975, Section 34-8-2(b) provides that, "The certificate of authority to engage in the business of general contracting in the State of Alabama shall expire 12 months following its issuance or renewal and shall become invalid on that date unless renewed." The statute then has two sentences talking about staggered license. Then, it follows and "expressly mentions" the following sentence, "The board may promulgate rules and regulations relating to the procedures for renewal of licenses." Therefore, since all of this was in one paragraph of the statutes, we believed we were not exceeding statutory authority.

We also believed giving a contractor an open end time to renew their license wouldn't service the purpose of this Board. That purpose is to safeguard the citizens of the State against incompetent contractors. Therefore, the need for a new application for the Board's review into their operation is needed. We will seek legislation on this matter if it is deemed necessary.

Significant Issue 2010-03:

Our survey indicates contractors may not be adequately informed of changes to board rules:

Whenever we change new Administrative Laws, we put this information on our website. We also send an updated copy of our Rules and Regulations Book with each new and renewal license to keep our licensees updated.

When we had statute changes in 2009, we had information explaining these changes in various association publications and various websites including ours. This was done to maximize exposure while minimizing postage expense.

In order to communicate with our licensees in a more timely manner, we are in the process of setting up a "Facebook" page on the internet. Several State Agencies that are using this media have given us good reports; therefore, we hope this will help with this communication situation.

Significant Issue 2010-04:

Our survey indicates unlicensed contractors working in Alabama is a significant concern to general contractors:

As can be seen by the letter written by the Board's Executive Secretary, this is an issue the Board is working on at all times.

Significant Issue 2010-05:

Our survey of Board members indicates a perceived need by the Board for additional fees:

In order to be proactive as far as revenue is concerned, the Board needs to look to replace declining sources of revenue. As is stated, the licensing fees are declining due to the downturn in the economy. The legal violation fees are greatly declining due to the great job of our investigators and the Board member's firm hand on violations. With these two sources of revenue declining, there are some services we could charge for that could help with the difference. The Board feels we can determine exactly what we need

Alabama Licensing Board for General Contractors
Significant Issues

to charge for all the different services for only those that need them. Therefore, this would keep us from having to look at raising the new and renewal license fees across the entire Board if violations and the number of license fees continue to decline.

Alabama Licensing Board for General Contractors
Current Status of Findings / Significant Issues

Prior Finding 2004-06

Current Status (this report)

The Code of Alabama 1975, Section 34-8-28(a) requires that the funds collected for distribution to public institutions of higher education be distributed at the end of each fiscal year which ends on September 30. The Board will seek legislation to change this distribution date for the following reasons:

- A. For funds collected in 2008, the reporting forms were sent out to the Universities in the first quarter of Fiscal Year 2009. The Board received the last reporting form on January 30, 2009. While tabulating the forms, there was a discrepancy with a claim from one of the participants that had to be resolved. This took an onsite visit to correct the misunderstanding of the certification that was needed. After this was cleared, final tabulations were made, sent to all participants for their approval, and then the distribution amounts were sent to the Department of Finance. By the time warrants were approved by the Department of Finance, the date was March 7, 2009. They were sent by Federal Express March 10, 2009.
- B. To expedite funds collected in 2009, reporting forms were sent to the universities in August 2009 with a note to send the forms back rapidly since we knew their money was short. These are the dates we received them: 10/22/09, 11/11/09, 11/25/09, 12/4/09, 1/12/10, 1/14/10, 1/21/10, and 1/26/10. We made our tabulation, sent to all participants for their approval, and then sent this distribution amount to the Department of Finance. The warrants were dated February 6, 2010 and we sent them out on Federal Express on February 10, 2010.

It takes time for the Universities to gather the information required to make this report. This report has to be accurate because it is signed by the President of the University as well as the Department Head. This is why we feel the need to change the date for the distribution.

Alabama Licensing Board for General Contractors
Current Status of Findings / Significant Issues

Prior Finding 2008-06:

Current Status (this report)

- **Three instances in which the number of votes recorded were inconsistent with the number of members who were recorded as present at the meeting (7/16/09, 2/17/10, and 4/21/10)**
 1. 7/16/09 – There were only three members present and upon review of the minutes all votes were recorded 2-0.
 2. 2/17/10 – All members were present therefore the votes were 4-0 until 3:30. I recorded Mr. Grizzle had to leave at 3:30. After that, all vote results were 3-0.
 3. 4/21/10 – There were four members present. All votes totaled 3 members except on the violation agenda with one violator where the vote was 2-0 since one member recused himself.
- **One instance in which items on the agenda were passed with only two members recorded as voting (7/16/10. A quorum for the board is three members.**

Alabama's Open Meeting Act (Act 2005-40) defines a quorum as a majority of the voting members of a governmental body. According to Robert's Rules of Order, in both the voting chapter and the membership chapter, the President, Chairman, Presiding Officer, can be a voting member in three situations. They are (1) if the President's vote would break a tie vote, (2) if the President's vote would create a tie vote, or (3) if the vote is taken by ballot. Therefore, even though the Chairman never had to vote, he was present, was a voting member, and we had a quorum for the Board meeting.